THE HON'BLE MS JUSTICE G.ROHINI

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WRIT PETITION NO : 18195 of 2005

Dated: 28.10.2005

Between:

The Fishermen Co-op Society, Yellandu,
rep by President Kotagiri Haribabu,
S/o Bikshmaiah R/o Yellandu (V & M),
Khammam District.

..... PETITIONER

AND

The Commissioner of Fisheries,
Department of Fisheries, Matshya Bhavan,
Shanthinagar, Vijayanagar Colony,
Hyderabad and another.

.....RESPONDENTS

ORDER:

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This writ petition is filed seeking a declaration that the order dated 19.07.2005 passed by the second respondent-Assistant Director of Fisheries, Khammam, Khammam District, is arbitrary and illegal.

A perusal of the impugned order shows that the second respondent, on the representation made by one Kayam Ramesh and others stating that they want to organize a Tribal Fishermen Cooperative Society at Sudimalla village, after deletion from the area of operation of petitioner-society, directed the President of the

petitioner-society to take necessary action to delete Sudimalla village from the area of operation of the petitioner-society.

It is contended by the learned counsel for the petitioner that the request made by third parties for organization of separate tribal fishermen cooperative society is unwarranted and cannot be accepted. It is also contended that the impugned order has been passed by the second respondent without affording any opportunity to the petitioner-society to submit its objections against the proposed deletion of Sudimalla village, which is arbitrary and illegal apart from being violative of the mandatory procedure prescribed under Section 15-A of the A.P.Cooperative Societies Act, 1964 (for short “the Act”).

I have heard the learned counsel for the petitioner as well as the learned Government Pleader for Fisheries appearing on behalf of the respondents.

It is not in dispute that Section 15-A of the Act empowers the Registrar either to amalgamate or merge any society with any other such society or divide and restrict or transfer the area of operation of a society. However, the same can be done only after following the procedure prescribed under the Act. It is relevant to note that clause (e) of Section 15-A (1) of the Act specifically provides that before passing any order either for amalgamation or dividing the area of operation of a society, the Registrar has to publish a notification specifying the area of operation of the society proposed to be divided and invite objections or suggestions from the societies or any members, depositors, creditors, employees or other persons concerned with the affairs of the society, which are to be received within 21 days from the date of publication of the notification.

From the counter-affidavit filed by the second respondent, who is the competent authority to take action under Section 15-A of the Act, it is clear that no such procedure has been followed before issuing the impugned order. In the circumstances, the impugned order is liable to be set aside on that ground alone.

Accordingly, the impugned order is set aside and the writ petition is allowed. However, liberty is granted to the respondents to take appropriate action following the procedure prescribed under law. No costs.

28.10.2005

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